

SECTION III PLAN PROCEDURES

31 General

Only those plans which constitute "subdivisions" as that term is defined in Section II require the approval of the Planning Board. However, all plans, whether "subdivisions" within the meaning of the law or not, must have either approval as a subdivision, or endorsement that they do not require approval, before they will be accepted for recording at the Registry of Deeds or registration at the Land Court.

Plans intended for review at any meeting of the Planning Board should be forwarded to the Office of the Town clerk not later than 4:00 PM two working days prior to the Planning Board meeting. The day of the next regular Board meeting shall be considered to be the date of submission for all plans, except that the date of mailing shall be the date of submission for Definitive Plans sent by registered mail to the Planning Board, care of the Town Clerk.

32 Plan Believed Not to Involve Subdivision

321 Submission. Anyone may submit a plan seeking endorsement that the plan doesn't require approval under the Subdivision Control Law. The plan and two prints (to be retained) plus Form A and a \$25.00 filing fee should be submitted to the Planning Board, and a copy of Form A should be filed (by delivery or registered mail) with the Town Clerk. If the Board determines that the plan does not show a subdivision, it shall endorse the plan "Approval under the Subdivision Control Law Not Required". The Board will return the original of the plan to the applicant notifying both him and the Town Clerk of its action.

322 Time Limit. If the Planning Board takes no action within 14 days of submission, the plan is automatically deemed not a subdivision plan, and the Town Clerk may so certify.

323 Ways in Existence. Existing ways will normally be determined by the Board to provide adequate access to qualify a plan as not constituting a subdivision only when the layout, design, and construction of such ways meet the standards of the regulation as applicable to ways within a subdivision.

33 Small Project Procedures

331 Applicability. If he chooses, a developer may request to submit his plan under Small Project Procedures, which are less demanding than normal ones. To qualify, the subdivision must create frontage potentially serving six or fewer lots; must not be contiguous with property subdivided within the past five years and now or previously in ownership common with this land; must not be served by access previously developed under Small Project Procedures, unless standard project construction requirements for that access have been met, and must be approved for such procedures by the Planning Board at the time of pre-submission review.

332 Limiting Agreements. Any plan approved under Small Project Procedures must contain or refer to covenants that no additional lots will be created on land in the same ownership for five years from the date of approval if such land is continuous or reached via the roads in the Small Project, unless standard project construction requirements for that access have been met. The plan must be annotated to the effect that lots on that plan are subject to possible betterments for street improvements if the street is accepted by the town. Steps in processing such plans are the same as for standard projects.

34 Pre-Submission Review

Prior to investing in extensive professional design efforts for subdivision plans, it will often prove useful to review the proposed development of a parcel of land with the Planning Board, in order that general approaches, possible use of cluster development, and potential problems can be freely explored. Pencil sketches, which need not be professionally prepared, will assist the discussion, and might show some but not all of the information shown on a Preliminary Plan. In some cases, especially Small Projects, this pre-submission review may eliminate need for such a Preliminary Plan. As a result of pre-submission review the requirements for the Preliminary Plan will be established.

35 Preliminary Plan of a Subdivision

351 General. A Preliminary Plan of a subdivision may be submitted by the applicant to the Planning Board and to the Board of Health for discussion and approval, modification, or disapproval by each Board. The submission of such a Preliminary Plan will enable the subdivider, the Planning Board, the Board of Health and other municipal agencies, and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before costly engineering drawings for a Definitive Plan are prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in each case except those where pre-submission review had adequately clarified all issues.

352 Application Procedure. The applicant shall file by delivery to registered mail a notice with the Town Clerk stating the date of submission for such approval of a Preliminary Plan to the Planning Board, accompanied by a copy of the completed application (Form B). A properly executed Form B (see Appendix) shall be filed with the Planning Board, along with six (6) copies of the Preliminary Plan, and a filing fee of \$10.00 plus \$1.00 per lot in excess of six. The Board shall distribute copies to the Road Commissioners, Fire Department, Conservation Commission, and the Board of Selectmen, for the comments and suggestions.

353 Contents. The Preliminary Plan shall be drawn on tracing paper or cloth at a scale of 100 feet to one inch or other scale approved by the Planning Board, and shall be identified as a Preliminary Plan. A Preliminary Plan shall have contents as defined in Sec.81-L of Ch. 41, G.L.

In addition, to promote better understanding, it is suggested but not required that the following be submitted;

353a. A locus plan of the subdivision, showing its street configuration in relation to the surrounding area, at a scale of 1"=2000'.

353b. In the case of a subdivision covering less than all of the land owned by the subdivider in the area of the subdivision, a plan showing in a general manner the proposed overall development of all of said land.

353c. Preliminary findings, in a general way, of the Environmental Impact Analysis required at Section 364.

During the discussion of the Preliminary Plan, the complete information required for the Definitive Plan, and the Performance Guarantee will be developed.

354 Approval or Disapproval of Preliminary Plan. Within sixty days after submission of a Preliminary Plan, the Planning Board shall approve such plan with or without modifications suggested by it or agreed upon by the person submitting the plan, or the Board shall disapprove such Preliminary Plan, and in the case of disapproval, shall state its reasons therefore. Failure of the Planning Board to approve or disapprove the Preliminary Plan within sixty days shall be construed as approval.

355 Relation of Preliminary Plan to Definitive Plan and Zoning Provisions. Approval of a Preliminary Plan does not constitute approval of a subdivision, and a Preliminary Plan may not be recorded in the Registry of Deeds. Provided that a Definitive Plan is duly submitted within seven months from the date of submission of the Preliminary Plan, the subdivision rules and regulations in effect at the time of submission of the Preliminary Plan shall govern the Definitive Plan, and if the Definitive Plan is ultimately approved, the zoning provisions in effect at the time of submission of the Preliminary Plan shall govern the land shown for seven years from the date of approval of the submission

36 Definitive Plan

361 Application Procedure. Any person who submits a Definitive Plan of a subdivision to the Planning Board for approval shall file with the Board the following:

Four contact prints of the Definitive Plan and other required drawings, dark line on white background.

Two copies of properly executed application Form C.

A filing fee of \$150.00, plus \$10.00 per lot or dwelling unit for each lot or dwelling unit in excess of six.

The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such approval, plus a copy of the completed application Form C.

362 Standard Definitive Plan Contents. The Definitive Plan shall be clearly and legibly drawn in Black India ink upon tracing cloth. Sheet size shall not exceed 24" x 36". The Plan shall be at scale of one inch equals 100 feet, or such other scale as the Board may accept to show details clearly and adequately. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall contain the following:

Subdivision name, boundaries, north point, legend, date and scale:

Name and address of record owner, subdivider, surveyor, and other professionals engaged in the design.

Location and names of all abutters as they appear in the most recent local tax list; assessors' map numbers; designation of zoning districts.

Existing and proposed lines of streets, ways (including ancient ways), paths, lots, easements and public or common areas within the subdivision. (The proposed names of proposed streets shall be shown in pencil until they have been approved by the Selectmen).

Sufficient data to determine readily the location, direction, and length of every street and way line, easements, lot line and boundary line, and to establish those lines on the ground. If any part of the subdivision is within 500 feet of a Massachusetts Co-Ordinate System Island Zone Survey Monument, the subdivision shall be tied to said system.

Road centerline stationing, referenced to the Street Plans and profiles;

Lot numbers.

Location of all permanent monuments, properly identified as to whether existing or proposed.

Location, names and present widths of street bounding, approaching or within reasonable proximity of the subdivision.

Existing and proposed watercourses, ponds, and wetlands.

Suitable space to record the action of the Board and the Ch. 41, G.L.

363 Street Plans and Profiles. For every street in a Standard Project, there shall be a separate plan at 1" = 40', and profile at 1"=40' horizontal, 1"=4' vertical, showing the following data:

Exterior lines of the way, with sufficient data to determine their location, direction and length.

Existing centerline profile to be shown as a fine full line. Existing centerline profile for intersecting streets to be shown for at least 100 feet each side of the intersection of street centerlines. When required by the Board, existing right sideline shall be shown as a dashed black line, left sideline as black dots. Elevations shall be based on the U.S.C.G.S. bench marks if such exist within 1000 feet of the subdivision.

Finished, designed profile to be heavy full line, with elevations shown every 50 feet (25 feet on vertical curves).

Existing and proposed water courses, ponds, and wetlands.

All drainage facilities to be shown on the plan and profiles (in red, showing sizes, invert elevations, and slopes.

Location and size of existing and proposed water mains, hydrants, and main gate valves.

Location of existing and proposed cable utilities and their appurtenances.

Location of the following, unless waived by the Board: existing and proposed street paving, sidewalks, street lighting, curbs, gutters.

364 Environmental Analysis. Any subdivision creating frontage potentially allowing thirty or more lots shall be based upon an Environmental Analysis, and, in addition, the Board may require for subdivisions of fewer than 30 lots that certain of the following be submitted where such information is necessary to evaluate the plan because of special circumstances of the location or proposal. Environmental analyses shall be prepared by an interdisciplinary team to include a Registered Land Surveyor, Professional Civil Engineer, and Registered Architect or Registered Landscape Architect, unless otherwise agreed to by the Planning Board. The following documentation is required from each such analysis.

A set of plans at uniform scale shall be submitted, encompassing the entire subdivision on a single sheet not larger than 42"x 60", showing the following:

The same data as on the definitive plan, reproduced as a clear acetate or mylar overlay.

Topography at two-foot contour intervals, with graphic drainage analysis; indication of annual high water mark, location of existing structures, including fences and walls.

Vegetative cover analysis, including identification of general cover type (wooded, thicket, grassland, fresh wetland, etc.), location of all major tree groupings plus other outstanding trees or

other botanical features, important wildlife habitats, and identification of areas not to be disturbed by construction.

Soil types, approximate groundwater level, location and results of soil percolation or other subsurface tests.

Visual analysis, including analysis of scenic vistas, and locations of visual prominence.

A narrative statement shall also be submitted, documenting the following with references to the above maps as germane;

Impact upon surface water quality and level.

Impact upon ground water quality and level.

Material effects upon important wildlife habitats, outstanding botanical features, scenic or historic environs.

Capability of soils, vegetative cover, and proposed erosion control efforts to support proposed development without danger of erosion, silting, or other instability.

Relationship to the requirements of Sec. 40 and 40A Ch. 131, G.L. (Wetlands Acts).

365 Other Submittals. The following shall also accompany submission of a Standard Definitive Plan:

Typical street cross section for each class of street within the subdivision, drawn in 1"=4', showing location of all elements within the street right-of-way, and typical cross sections of any altered drainage courses off-street paths.

A locus plan of the subdivision, showing its street configuration in relationship to surrounding streets, at 1"=2000'.

Identification of landscape types, based on categories of Appendix A, and a narrative statement of relationship to the design guidelines of Appendix A, and proposed means, if any, of ensuring compliance by purchasers of lots with those guidelines.

If requested by the Board, drainage calculations, traverse notes, evidence of ownership, language of any easements, covenants or restrictions applying or proposed to apply to the area being subdivided, rights and easements obtained for utilities or drainage outside of the subdivision, description of erosion control methods to be employed.

366 Small Project Submittals. For Small Projects, Sections 362, 363, 364, and 365 do not apply; rather, any plan in form acceptable to the Registry of Deeds or Land Court may be submitted, provided that on that plan or on separate documents submitted the proposed centerline profile of any proposed street is shown, and proposed drainage, utilities, and road construction have been made explicit.

Plan Processing (both Small Project and Standard Plan)

a) Board of Health Review. At the time of filing of the Definitive Plan, the applicant shall also file a copy with the Board of Health. The Board of Health shall within forty-five days after filing of the

Plan report to the Planning Board in writing their approval or disapproval of said plan, If the Board of ealth disapproves said plan, it shall make specific findings as to which, if any, of the lots whown in such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefor in such report, and, where possible, shall make recommendations for the adjustment thereof. Any approval of the plan by the Planning Board shall then only be given on condition that the lots or land as to which such specific findings were made shall not be built upon without prior consent of the Board of Health. The Board shall endorse on the plan such conditions, specifying the lots or land which said conditions apply.

b) Public Hearing. Before approval, modification and approval or disapproval of the Definitive Plan is given, a public hearing shall be held by the Planning Board, notice of the time and place of which and of the subject matter, sufficient for identification, shall be given by the Planning Board by advertisement in a newspaper of general circulation in the Town of Tisbury, once in each of two successive weeks, the first publication being not less than fourteen days before the day of such hearing, and by mailing a copy of such advertisement to the applicant and to all owners of land abutting the land included in such plan as appearing on the most recent local tax list.

c) Performance Guarantee. Before the Planning Board endorses its approval of a Definitive Plan, the developer shall agree to complete without cost to the town all improvements required by this regulation, and shall provide security that he will do so, either by covenanting not to sell or build upon any lots until completion of the improvements (which covenant must be referred to on the Plan and registered or recorded with it) (see Form F), or by posting bond or other security which the town can utilize in the event that the improvements are not completed within two years (see Forms E-1 and E-2), or by some combination of these. The Board may grant partial release from such security for partial completion of improvements, provided that the completed portion provides a reasonable system for circulation and utilities pending completion of the rest. The Board may release the developer from the covenant upon receipt of an agreement executed by the applicant and by the holder of a first mortgage on the premises providing for retention of funds and their availability to the town upon default (See Ch. 41, G.L. Sec. 81-U, 11th paragraph).

Full security shall not be released until the integrity of road pavement and drainage has been verified following a full winter of use, until trees and other vegetation have been established, until either fee to the streets has been conveyed to the town (Sec. 555) or other provisions for their continued maintenance have been accepted by the Board, and until the record plans have been received.

d) Approval, Modification or Disapproval. The action of the Board in respect to such Definitive Plan shall be by vote. Copies of said vote shall be certified and filed with the Town Clerk and a copy sent by delivery or registered mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its action.

Criteria for action by the Board shall be the following:

Completeness and technical adequacy of all submissions.

Determination that development at this location does not entail unwarranted hazard to safety, health and convenience of future residents of the development or to others because of possible natural disasters, traffic hazard, or environmental degradation.

Conformity with the Design Standards of Section IV.

Determination, based upon the Environmental Analysis when submitted, that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.

Determination that the Development Guidelines of Appendix A have been reflected in the design.

Approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Board but not until the statutory twenty day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk and the Clerk has notified the Board that no appeals has been filed.

Following endorsement of the Plan by the Board, the applicant shall provide the Board with a reproducible copy and two contact prints of the Definitive Plan and of the Street Plan and Profile, and a copy of final covenants and restrictions for its files. The Board shall supply the applicant with a completed Form D.

Approval of the Definitive Plan or release of security does not constitute the laying out or acceptance by the town of streets within a subdivision.

368 Rescission. Failure of the developer to record the Definitive Plan within six months of its endorsement, or to comply with the construction schedule of the performance agreement (Form E- Covenant or Form F – Performance Bond), shall constitute sufficient reason for the recession of such approval, in accordance with the requirements of Section 81-W, Ch. 41, G.L.